

the or the movements of the Russian agents," said the General, "let me ask you a few questions, has Russia done that has not been done by other nations? Has not England purchased horses here for the use of her cavalry? Has not Turkey purchased mules during the war while hostilities were in progress the field and shipped them openly from our ports?"

"It was obliged to not assert and Mr. Cushing sat and looked at him with a comical expression of face. However public and notorious the fact was, I requested him to stop for a moment, as he had asked me to do so, and to re-me an exposition of his interpretation of the article of 1818 as applied to a time of peace and to the purchase and fitting out of cruisers or privateers and their questions which have clamored for settlement view of the prospective conflict between Russia and England and the presence of the Cimbric in our waters. Mr. Cushing then made the following statement:—

MR. CUSHING'S STATEMENT.

"The subject to which you call my attention is one great delicacy, and concerning which it is difficult say anything with precision, except in so far as reference public and notorious facts. That is, it would be improper for me to discuss supposed or conjectured facts or to anticipate possible future occurrences. As a general rule it is inconvenient express legal opinions except upon the basis of actual incidents. To be sure, when counsel employed by a client he is compelled frequently to rely beyond what is known into the field of conjecture and supposition, and to express for the guidance of the client opinions respecting supposed or susceptible facts, or things which may or may not happen; but it is not safe to do this unless when it is dictated by considerations of personal or professional duty. It is still more difficult a matter of this nature where it is inconvenient to say anything by anticipation which may by any possibility embarrass one's own government. In addition to this, given to me the covering or disavowing of unfriendly friendly foreign government. I think, therefore, that with all possible disposition to oblige the auditors of the HERALD, it will be necessary for me confine myself in what I may say to the circumstances as they now appear of the case of the Cimbric.

THE CIMBRIC'S ACTUAL STANDING.

"It is understood, and I assume it to be the fact, that the Cimbric is a German steamer under charter to the Russian government; that she is not armed for war; that for her construction is not adapted to offensive purposes—as, for instance, that she has no portholes for naval warfare; that she has not cannon mounted, or, indeed, any arrangements for mounting cannon; that she has on board not a proper crew, but only "passengers," who may or may not at any future time be organized as a crew or crews for naval purposes, but who are not now in that predicament; that she is, in fact, a ship ostensibly commanded by a German sailor, not by a Russian officer, and that as being put to employment, even though that of a merchant captain only on the coasting trade of Hamburg mercantile steamers plying between that port and ports of Great Britain and the United States. It is further understood, however, that on board the Cimbric are officers of the Russian navy who may or may not at present exercise moment produce authority to take command of the Cimbric. Assuming all these facts to be so, it does not seem to me that there is anything in the character, condition or actual doings of the Cimbric which conflicts with any statute of the United States or with any international obligation of the United States; but it must be admitted that obligations in this relation exist by the law of nations in addition to those specially indicated in any statute.

WHAT MAKES A PRIVATEER.

In the first place the subject has been mystified and confounded by loose talk in our newspapers concluding privateers. A privateer it seems to have been forgotten is a private ship, owned and commanded by individual persons, engaged in piracy, and whose sole business is to capture prizes, to make them for their own account and for her own personal profit and advantage. Nothing of this sort appears in the case of the Cimbric. It is not pretended that Captain Badenhausen intends to engage in privateering. If by any possibility, and contrary to all appearances, the Cimbric is ever to become a cruiser, it will be as a man-of-war and not as a privateer, for either of the Russian officers on board being properly authorized has only to send his commission as the quarter deck of any ship to convert her by that act into an official man-of-war. Whatever the Russian government may contemplate there is no indication that she dreams of giving authority to any unofficial person, any private citizen, either of the United States or Germany, to cruise on his own account for private profit or otherwise to make a privateer of the Cimbric.

RUSSIA BOUND TO RESIST PRIVATEERING.

In the second place there is additional reason to believe that the Cimbric is not intended as a privateer, seeing that Russia was a party to the declarations of the congress of Paris which bound the parties in case of any future war not to authorize the fitting out of privateers, in which declaration, it is to be remembered, the United States and Spain refused to concur, notwithstanding the pressure brought to bear upon them by Great Britain, France and other Powers represented in that congress. That is to say, according to all present appearance, the Cimbric is innocent of any act incompatible with the friendly relations existing between the United States and Russia, and the United States and Great Britain. Neither the Cimbric as a ship, nor Captain Badenhausen, nor any of the Russian officers on board of the Cimbric have thus far brought themselves within the purview of the penal provisions of any act of Congress. In the next place nothing appears to show that the Russian government intends, by the agency of the Cimbric, to perform any act in violation of neutrality, whether directed by general law or by acts of Congress.

NEUTRALITY OBLIGATIONS ALWAYS IN FORCE.

Again the question of the character of the Cimbric for her purposes is not confined, as some of the discussions on the subject have inferred, to the consideration of the existence or non-existence of war between Russia and Great Britain. The obligations of neutrality, whether regarded in the light of the law of nations or of statute, are of constant force in time of peace as well as in time of war, so that the acts of the Cimbric involve just as much transgression of the law of neutrality as if there had been a declaration of war between Great Britain and Russia. But, as we have seen, there is nothing thus far in her acts or in apparent character susceptible of being regarded as an act of war, and, therefore, the only question of a neutral nature is whether she affords occasion to just suspicion of being intended as the instrument of any act of hostility against Great Britain, with which Russia is not at war, or against Turkey, with which she is at war.

CONSIDER BRITAIN MAY DO.

This warranty brings us into the vague field of conjecture, and if we go into that field we are bound good faith to make assumptions favorable rather than adverse to Russia, and the lawful acts which Russia may do in the United States during war, and all more in anticipation of war, are numerous, and such as other European Powers have been doing, and had a right to do, and that she is justified in doing without bringing any law, and in one instance that of Turkey, greatly to the prejudice of Russia, it being notorious that Turkey, so far as regards small arms, at least, has equipped her infantry with the most part with arms manufactured in the United States, just as she has purchased her ships of iron in England. On the principle which still continues to be recognized as public law by all governments Russia may purchase arms of the United States, large or small, as Turkey has been doing; she may purchase horses to mount her cavalry or artillery, as it is and England is now doing, and she may purchase even ships prepared, so far as regards their construction, to be converted into ships of war, as Turkey did in England, within a few years past we have allowed Spain to construct a whole fleet of men-of-war in the United States; we have allowed men-of-war to be constructed in the United States, for sale to France, Japan, China, Peru and Italy, and that she is justified in appropriating arms to the existence or in the immediate apprehension of belligerence, and certainly there is no ground to forbid a Russian from travelling in or through the United States in time of peace.

RUSSIA SHOULD RESPECT OUR POSITION.

In the third place, if it were proper to explore still further the field of conjecture or possibilities it would be no more than just to say that while it may be supposed and admitted that Russia will avail herself of such means of action or preparation as may be found in the United States within the limits of international right and of statute, as she has a perfect right to do, on the other hand it is not to be anticipated or believed that she will be saving whatever is violation of